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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/725,420

12/03/2003

Tomoaki Miyashita

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12/10/2004

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EXAMINER

BLACKMAN, ROCHELLE ANN J

ART UNIT

PAPER NUMBER

2851

DATE MAILED: 12/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/725,420

Applicant(s)

MIYASHITA ET AL.

Examiner

Rochelle Blackman

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2851

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 11-16 is/are rejected.
- 7) ☒ Claim(s) 6-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/03/03
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 11, and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Akiyama et al. (U.S. Patent No. 5,170,195).

Akiyama discloses an electro-optical apparatus (see FIGS. 1-23) comprising: an electro-optical device (40 or 62) having an image display region (see S in FIG. 3 and 13 and col. 3, lines 37-39) on which projection light from a light source (see L in FIG. 23) is incident; and a mounting case (FIGS. 3 and 4 or FIG. 13) including a plate (12c or 61) disposed to face one surface of the electro-optical device and a cover (10 or 50) to cover the electro-optical device, a portion of the cover abutting against the plate (see 12 and 12c or see col. 5, lines 26-28), the mounting case accommodating the electro-optical device by holding at least a portion of a peripheral region located at a circumference of the image display region of the electro-optical device with at least one of the plate and the cover (see 10, 12, 12c, and 40 in FIGS. 2-4 or see 50, 52, 61, and 62 in FIG. 13 and col. 5, lines 28-30), the cover having a surface area increasing portion (13 and 13a or 53) to increase the surface area thereof; the cover having a sidewall portion (13 and 13a or 53) facing a side surface of the electro-optical device, and the

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surface area increasing portion increasing the surface area of the sidewall portion; the surface area increasing portion having fins (13 and 13a or 53) protruding from the surface of the cover; the fins being formed to correspond to the direction of the flow of cooling air which is supplied to the electro-optical device encased in the mounting case (see 53 and 57-59 in FIG. 13); the fins being provided in a straight shape (see 13 and 13a and 53); the fins including the first column of fins and the second column of fins extending in parallel with the first column of fins (see opposite facing "columns" of fins 13a located on the outside of 12 and fins near element 19 or located on the inside of 12 in FIG. 3), and a gap between the first column of fins and the second column of fins being 1 mm or more (see of the size of the area of 16 between the opposite facing "columns" in FIG. 3); the cover being made of a material of high heat conductivity (see col. 3, lines 9-11); a projection display apparatus (see FIG. 23); an optical system (see optical axes leading to from L towards LCb, LCr, LCg in FIG. 23) to guide the projection light into the electro-optical device; a projection optical system (PL) to project the light emitted from the electro-optical device; and a cooling air discharging portion (57-59 of FIG. 13) to supply cooling air to the electro-optical apparatus.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA

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1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-4 and 11-16 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3, 18, 19, 20, 21, and 27-29 of copending Application No. 10/722,442. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed "electro-optical apparatus" of claims 1 and 14 is met by the *electro-optical device* of claim 1 of app. '422; the claimed "light source" of claims 1 and 24 is met by the *light source* of claims 1 and 27; the claimed "mounting case" of claims 1 and 14 is met by the *mounting case* of claims 1 and 27 of app. '422; the claimed "electro-optical device" of claims 1 and 14 is met by the *electro-optical device* of claims 1 and 27 of app. '422; the claimed "plate" of claims 1 and 14 is met by the *plate* of claims 1 and 27 of app. '422; the claimed "cover" of claims 1 and 14 is met by the *cover* of claims 1 and 27 of app. '422; the claimed "surface area increasing portion", "fins", "gap", and "dimples" of claims 1, 2, 3, 11, 12, 14, and 15, is met by the *surface-area increasing portion, fins, gap, and dimple* of claims 18-21 of app. '422; the claimed "high heat conductivity" of claim 13 is met by the *higher heat conductivity* of claims 3 and 28 of 'app. 422; the claimed "projection display apparatus" comprising: "optical system" and

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“projection optical system” of claim 16 is met by the *projection display apparatus* comprising: *optical system* and *projection optical system* of claim 29.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Allowable Subject Matter***

1. Claims 6-10 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
2. The following is a statement of reasons for the indication of allowable subject matter:

Claims 6-10 have been found to be allowable because the prior art of record either alone or in combination neither discloses nor makes obvious the “electro-optical apparatus” having the particular feature, “fins being arranged in a zigzag shape” in combination with the particular combination of features recited in claims 1 and 3.

Claim 12 has been found to be allowable because the prior art of record either alone or in combination neither discloses nor makes obvious the “electro-optical apparatus” having the particular feature, “dimples provided to form concave portions on the surface of the cover” in combination with the particular combination of features recited in claim 1.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rochelle Blackman whose telephone number is (571) 272-2113. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571) 272-2258. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RB



JUDY NGUYEN  
PRIMARY EXAMINER